



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

JAMES K HORN MD
7401 SOUTH MAIN STREET
HOUSTON TX 77030

Respondent Name

NEW HAMPSHIRE INSURANCE CO

Carrier's Austin Representative

Box Number 19

MFDR Tracking Number

M4-10-0806-01

MFDR Date Received

September 28, 2009

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Texas workers compensation follows Medicare guidelines. According to Medicare all billed codes have a site of service indicator of 1. This means the charges are to be processed as facility fees. These are surgical procedures and are performed in a facility. The performing physician charges these fees, not the place of service. The place of service bills for per diem expenses such as the surgical suite etc. This bill needs to be reprocessed and the additional amount paid. This applies to both the surgeon and his assistant."

Amount in Dispute: \$400.86

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The insurance carrier has reviewed the Medical Fee Dispute Resolution Request/Response (DWC-60). In reviewing the report, it is the carrier's position that the medical bill paid correctly per the provider's contract with First Health. The provider is not taking into consideration their PPO discount. They are agreeing that MAR is \$139.86 for 27814 and \$572.65 for 27829. That is what they were paid minus the PPO for a net payment of \$1570.64."

Response Submitted by: Chartis Dallas Worker's Compensation Service Center

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
January 29, 2009	27814-RT and 27829-RT	\$400.86	\$400.86

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving a medical fee dispute.
2. 28 Texas Administrative Code §134.203 sets out the fee guidelines for professional medical services.

3. The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits

- 1 (45) – Charges exceed your contracted/legislated fee arrangement
- 2 (W1) – Workers Compensation State Fee Schedule Adjustment
- 3 (59) – Processed based on multiple or concurrent procedure rules
- * – Our position remains the same if you disagree with our decision please contact the TWCC Medical Dispute Resolution

Issues

1. Was the workers' compensation insurance carrier entitled to pay the health care provider at a contracted rate?
2. Did the requestor bill in conflict with the NCCI edits?
3. Is the requestor entitled to reimbursement?

Findings

1. The insurance carrier reduced disputed services with reason code "1 (45) – Charges exceed your contracted/legislated fee arrangement." Review of the submitted information found insufficient documentation to support that the disputed services were subject to a contractual fee arrangement between the parties to this dispute. Nevertheless, on October 7, 2010 the Division requested the respondent to provide a copy of the referenced contract as well as documentation to support notification to the healthcare provider, as required by 28 Texas Administrative Code §133.4, that the insurance carrier had been given access to the contracted fee arrangement. Review of the submitted information finds that the documentation does not support notification to the healthcare provider in the time and manner required. The Division concludes that pursuant to §133.4(g), the insurance carrier is not entitled to pay the health care provider at a contracted fee. Consequently, per §133.4(h), the disputed services will be reviewed for payment in accordance with applicable Division rules and fee guidelines.

2. Per 28 Texas Administrative Code § 134.203 "(b) For coding, billing, reporting, and reimbursement of professional medical services, Texas workers' compensation system participants shall apply the following: (1) Medicare payment policies, including its coding; billing; correct coding initiatives (CCI) edits; modifiers; bonus payments for health professional shortage areas (HPSAs) and physician scarcity areas (PSAs); and other payment policies in effect on the date a service is provided with any additions or exceptions in the rules."

The requestor seeks additional reimbursement for CPT codes 27814 and 27829 defined by the AMA CPT Code book as follows:

27814 "Open treatment of bimalleolar ankle fracture (eg, lateral and medial malleoli, or lateral and posterior malleoli, or medial and posterior malleoli), includes internal fixation, when performed."

27829 "Open treatment of distal tibiofibular joint (syndesmosis) disruption, includes internal fixation, when performed."

The division completed NCCI edits in order to determine if edit conflicts would affect reimbursement. No edit conflicts were identified, therefore the disputed CPT codes will be reviewed pursuant to 28 Texas Administrative Code § 134.203 (c).

3. Per 28 Texas Administrative Code § 134.203 "(c) To determine the MAR for professional services, system participants shall apply the Medicare payment policies with minimal modifications. (1) For service categories of Evaluation & Management, General Medicine, Physical Medicine and Rehabilitation, Radiology, Pathology, Anesthesia, and Surgery when performed in an office setting, the established conversion factor to be applied is \$52.83. For Surgery when performed in a facility setting, the established conversion factor to be applied is \$66.32. (2) The conversion factors listed in paragraph (1) of this subsection shall be the conversion factors for calendar year 2008. Subsequent year's conversion factors shall be determined by applying the annual percentage adjustment of the Medicare Economic Index (MEI) to the previous year's conversion factors, and shall be effective January 1st of the new calendar year."

Per 28 Texas Administrative Code § 134.203 "(h) When there is no negotiated or contracted amount that complies with Labor Code §413.011, reimbursement shall be the least of the: (1) MAR amount; (2) health care provider's usual and customary charge, unless directed by Division rule to bill a specific amount; or (3) fair and reasonable amount consistent with the standards of §134.1 of this title." The TDI, DWC conversion factor for surgery when performed in a facility setting for 2009 is \$67.38.

Medicare pays for multiple surgeries by ranking from the highest MPFS amount to the lowest MPFS amount. When the same physician performs more than one surgical service at the same session, the allowed amount is 100% for the surgical code with the highest MPFS amount. The allowed amount for the subsequent surgical codes is based on 50% of the MPFS amount. The requestor seeks reimbursement for CPT codes 27814-RT and 27829-RT.

The MAR reimbursement for CPT code 27814 is \$1,398.86 reimbursed at 100% for the surgical code with the highest MPFS amount. The insurance carrier issued payment in the amount of \$1,114.43; therefore the requestor is entitled to an additional reimbursement in the amount of \$284.43.

The MAR reimbursement for CPT code 27829 is \$1,145.28, the allowed amount for subsequent surgical procedure is at 50% of the MPFS amount, therefore the MAR amount after the 50% reduction is \$572.64. The insurance carrier issued payment in the amount of \$456.21; therefore, the requestor is entitled to an additional reimbursement in the amount of \$116.43.

Review of the submitted documentation finds that the requestor is entitled to an additional reimbursement in the mount of \$400.86.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$400.86.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby **ORDERS** the respondent to remit to the requestor the amount of \$400.86 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

_____	_____	<u>October 24, 2013</u>
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.**

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.